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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,426	06/02/2005	Sedat Selvi	38566-77784	1879

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EXAMINER

WEAVER, SUE A

ART UNIT PAPER NUMBER

3727

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/537,426

Applicant(s)

SELVI, SEDAT

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 and 3 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 11-15 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 5-10, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/12/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedro '166, of record, in view of either Fusi '136 or Chang '654.

Pedro clearly teaches applicant's concept of attaching a zipper to two molded plastic case halves by stitching as shown at 25. Note the hinge at 21. To have merely provided the case of Pedro with a design in which the main outer surface of the lid is convex while the main outer surface of the base is concave for ease of handling the case, would have been obvious in view of either Fusi as shown in Figures 5 and 6 or Chang as shown in Figures 1 and 3.

2. Claims 4 is again rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 1 above, and further in view of Krenzel '519, of record.

To have further provided and expansion capability would also have been obvious in view of such teaching by Krenzel.

3. Claims 14,15, 18 and 19 are again rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 13 above, and further in view of Hsu '784, cited by applicant.

To have further provided the case with handles and wheels for ease of transport would also have been obvious in view of Hsu. Furthermore to have provided supports

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on more than one wall to support the case in more than one orientation would also have been obvious in view of Hsu.

4. Claims 11 and 12 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Cheng '709, of record.

To have secured the zipper to the shells with a rubber cover to provide shock protection would have been obvious in view of Cheng at 2.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 11 above, and further in view of Kish, Jr '238, of record.

To have left the teeth of the zipper uncovered with it isn't desired to protect them from the elements would have been obvious in view of the teaching by Kish, Jr.

6. Applicant's arguments with respect to claims 20 have been considered but are moot in view of the new ground(s) of rejection.

7. The declaration under 37 CFR 1.132 filed 8/14/06 is insufficient to overcome the rejection of claims 1 and 13 based upon Pedro '166 in view of either Fusi '136 or Chang '654 and dependent claims 4, 11, 12, 14, 15, 18 and 19 as set forth in the last Office action because: The declaration is directed to the feature of claims 2 and 3 and the expandable zipper feature. Evidence of copying, such as it is, also appears to be directed to the same and not the invention claimed in claims 1 and 13. Furthermore there is no indication of the amount spent on any advertising of the particular luggage structure of its manner of sales to indicate whether or not that was what contributed to the alleged success of the invention.

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8. Claims 2 and 3 are allowed.
9. Claims 5-10, 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. Applicant's arguments, see page 7 and 8 of the amendment, filed 8/14/06, with respect to the objections to the drawings and disclosure and 112 rejection have been fully considered and are persuasive. The objections and 112 rejection of claim 19 has been withdrawn.
11. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday from 5:30 to 4.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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